

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ROBBIE AUTERY and SHANE)	
FULMER,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.:
v.)	2:08-CV-41-WC
)	
KEVIN DAVIS, in his official capacity)	
as Sheriff of Chilton County, Alabama,)	
and individually,)	
)	
Defendant.)	

**DEFENDANT'S EVIDENTIARY SUBMISSION
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

COMES NOW the Defendant, Kevin Davis, in his official capacity as Sheriff of Chilton County, Alabama, and individually, and make the following Evidentiary Submission in support of the Motion for Summary Judgment contemporaneously filed herein.

- 1 Exhibit “A”, Deposition excerpts of Shane Fulmer
- 2 Exhibit “B”, The Affidavit of Shane Mayfield
- 3 Exhibit “C”, Deposition excerpts of Robbie Autery
4. Exhibit “D”, Deposition excerpts of Kevin Davis
5. Exhibit “E”, The Affidavit of Michael Poe
6. Exhibit “F”, The Affidavit of Steve Tate
7. Exhibit “G”, The Affidavit of Greg Pappas
8. Exhibit “H”, The Affidavit of Clanton Advertiser Publisher
9. Exhibit “I”, State Court Complaint

/s/ C. Winston Sheehan, Jr.

C. WINSTON SHEEHAN (SHE 013)
Attorneys for Defendant Kevin Davis

/s/ Allison Alford Ingram

ALLISON ALFORD INGRAM (ALF005)
Attorneys for Defendant Kevin Davis

/s/ John W. Marsh

JOHN W. MARSH (MAR173)
Attorneys for Defendant Kevin Davis

OF COUNSEL:

BALL, BALL, MATTHEWS & NOVAK, P.A.
2000 Interstate Park Drive, Suite 204
Post Office Box 2148
Montgomery, Alabama 36102-2148
Phone: (334) 387-7680
Fax: (334) 387-3222

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2008, I electronically filed the foregoing with the Clerk of the Court, using the CM/ECF system which will send notification of such filing to the following registered persons and that those persons not registered with the CM/ECF system were served by U.S. mail:

Hon. William E. Rutledge
Hon. Gregory F. Yaghmai
RUTLEDGE & YAGHMAI
3800 Colonnade Parkway, Suite 490
Birmingham, Alabama 35243
williamerutledge@aol.com
yaghmai@rylaw.net

/s/ C. Winston Sheehan, Jr._____

OF COUNSEL

/s/ Allison Alford Ingram_____

OF COUNSEL

/s/ John W. Marsh_____

OF COUNSEL

EVIDENTIARY SUBMISSION

EXHIBIT

A

FREEDOM COURT REPORTING

Page 1

IN THE CIRCUIT COURT OF
CHILTON COUNTY, ALABAMA
CIVIL ACTION NO.: CV-2007-900130

ROBBIE AUTERY and
SHANE FULMER,

Plaintiffs,

VS.

KEVIN DAVIS, in his
official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
CIVIL ACTION NO.: 2:08-CV-41-WC

ROBBIE AUTERY and
SHANE FULMER,

Plaintiffs,

VS.

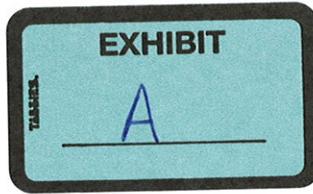
KEVIN DAVIS, in his
official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

DEPOSITION OF SHANE FULMER

STIPULATIONS

IT IS STIPULATED AND



367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 2

1 AGREED, by and between the parties,
2 through their respective counsel,
3 that the deposition of SHANE FULMER
4 may be taken before Karen Davis, CCR,
5 Commissioner, State of Alabama at
6 Large, at the Chilton County
7 Courthouse, 200 2nd Avenue North,
8 Clanton, Alabama, on the 16th day of
9 May, 2008, commencing at or about
10 11:40 a.m.

11 IT IS FURTHER STIPULATED
12 AND AGREED that the reading and
13 signature to the deposition by the
14 witness is waived, said deposition to
15 have the same force and effect as if
16 full compliance had been had with all
17 laws and rules of court relating to
18 taking of depositions.

19 IT IS FURTHER STIPULATED
20 AND AGREED that it shall not be
21 necessary for any objections to be
22 made by counsel as to any questions,
23 except as to form or leading

FREEDOM COURT REPORTING

Page 3

1 questions, and that counsel for the
2 parties may make objections and
3 assign grounds at the time of the
4 trial, or at the time said deposition
5 is offered in evidence, or prior
6 thereto.

7 IT IS FURTHER STIPULATED
8 AND AGREED that notice of filing of
9 the deposition by the Commissioner is
10 waived.

11
12
13
14
15
16
17
18
19
20
21
22
23

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

4e47edf1-e062-4cc4-b139-cc4d826fa0bd

FREEDOM COURT REPORTING

Page 15

1 Q. Who did you work for
2 prior to Jemison Police Department?

3 A. Chilton County Sheriff's
4 Department.

5 Q. And when did you go to
6 work for the Chilton County Sheriff's
7 Department?

8 A. January 19th, 1999.

9 Q. When did you, or did you,
10 apply for any positions other than
11 the Jemison Police Department?

12 A. Between my termination
13 and--- and employment with Jemison or
14 any time?

15 Q. Even before your
16 termination. After your father was
17 not elected sheriff.

18 A. I have applied for a
19 special agent job with the state of
20 Alabama in the Finance Commission
21 Agency, and I have applied for an
22 investigations position with the
23 Alabama Power Company.

FREEDOM COURT REPORTING

Page 57

1 A. You're not going to go
2 all over town talking about me.
3 Badmouthing me. Undermining me or my
4 department.

5 Q. Had you done any of that?

6 A. No, sir.

7 Q. Had you spoken critically
8 of Sheriff Davis?

9 A. There were things said
10 and--- and I even told Sheriff Davis.
11 He asked me or told me that he knew
12 things that had been said, naturally,
13 before the election, after the
14 election.

15 Q. So the question is, had
16 you badmouthed Sheriff Davis.

17 MR. YAGHMAI: Object to
18 the form. You can answer.

19 A. Not to the extent that he
20 was insinuating.

21 Q. In other words, you had
22 been critical of Sheriff Davis to
23 people on the street?

FREEDOM COURT REPORTING

Page 58

1 A. Not to the extent he was
2 insinuating.

3 Q. Well, what if any
4 criticisms had you expressed of
5 Sheriff Davis before you were
6 terminated?

7 A. That he was being
8 vindictive to me. I didn't
9 appreciate it. I took pride in my
10 job, in my career.

11 Q. Who did you tell that to?

12 A. I know I did to Deputy
13 Autery.

14 Q. Who else did you talk to
15 about Sheriff Davis in a critical
16 vein?

17 A. I'm expressing my
18 personal experiences. I don't
19 consider them to be critical.

20 Q. Had you complained to
21 anyone about Sheriff Davis before
22 your termination?

23 A. Myself and Mike Poe

FREEDOM COURT REPORTING

Page 81

1 A. Yes, sir. Yes, sir.

2 Q. And he took office in
3 January of 2007?

4 A. That's correct.

5 Q. Did Mr. Autery seek
6 employment anywhere?

7 A. I don't recall. I don't
8 have any knowledge of that.

9 Q. Do you attend church?

10 A. No, sir.

11 Q. All right. Have you---
12 did you contribute to your father's
13 campaign?

14 A. Yes, sir.

15 Q. And how much?

16 A. You mean financially?

17 Q. Please.

18 A. No, sir. If you want to
19 count gas money, yeah.

20 Q. Did you campaign for your
21 father door to door as did Mr.
22 Autery?

23 A. Yes, sir.

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

4e47edf1-e062-4cc4-b139-cc4d826fa0bd

EXHIBIT B

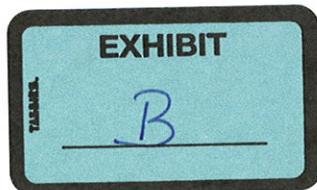
**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ROBBIE AUTERY and SHANE)	
FULMER,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.:
v.)	2:08-CV-41-WC
)	
KEVIN DAVIS, in his official capacity)	
as Sheriff of Chilton County, Alabama,)	
and individually,)	
)	
Defendant.)	

AFFIDAVIT OF SHANE MAYFIELD

Before me, the undersigned authority, on this day personally appeared Shane Mayfield, who being by me first duly sworn, deposed and stated upon his oath the following:

1. My name is Shane Mayfield. I am over the age of 21 years, and I have personal knowledge of the information contained in this Affidavit.
2. I have been in the law enforcement field for approximately fourteen and one half (14.5) years. At all material times hereto, I was the Chief Deputy in the Office of the Sheriff of Chilton County. Prior to serving as Chief Deputy for Sheriff Kevin Davis, I served as Chief Deputy under former Sheriff Billy Wayne Fulmer.
3. Sheriff Davis charged me as the Chief Deputy with the responsibility of maintaining good order and discipline in the Sheriff's office. Upon Sheriff Kevin Davis' taking office, he and I met to assess, review and evaluate the Office of the Sheriff of Chilton County and its employees. Sheriff Kevin Davis and I reviewed all employees and I advised him of their strengths and weaknesses, and other relevant information based on my personal knowledge.



4. I advised Sheriff Davis of reports that Captain Shane Fulmer was not adequately performing his job duties as supervisor of the Investigations Unit under the former Sheriff. I had worked with Shane Fulmer in investigations when he worked for former Sheriff Fulmer, and had observed his work habits. I noted that Shane Fulmer did not assume responsibility nor initiate investigations as I would have preferred, but his father was the then Sheriff, and I had very little, if any, control over Shane Fulmer. I warned Sheriff Davis that he could expect difficulties in trying to manage the former Sheriff's relatives given the reports that Billy Wayne Fulmer intended to seek election to his former position as Sheriff of Chilton County in 2010.

5. After Sheriff Kevin Davis took office in January of 2007, I received numerous reports about conduct that was creating dissention and mistrust among our employees. On several occasions, Sergeant Mike Poe, an investigator, told me that Captain Shane Fulmer was not working cases in the Investigations Unit. Sergeant Poe asked me as Chief Deputy to assign someone who would actually assist with the day-to-day operations of the Investigations Unit. I relayed this information to Sheriff Kevin Davis.

6. After he took office, Sheriff Davis and I also discussed Deputy Robbie Autery, who was related to former Sheriff Billy Wayne Fulmer. I explained that Robbie Autery had been given preferential treatment by Sheriff Billy Wayne Fulmer. I noted that Robbie Autery preferred patrolling the Interstate highway which runs through Chilton County rather than patrolling the entire county. Sheriff Davis told me that he had campaigned for Sheriff of Chilton County on the platform that the entire county needed to be patrolled and not just the Interstate highway. I recommended to Sheriff Davis that Robbie Autery be directed to patrol the entire county rather than merely the Interstate highway. Sheriff Davis authorized me to instruct Deputy Robbie Autery to cease patrolling only the Interstate, which I did.

7. I also advised Sheriff Davis that there had been complaints from citizens that Robbie Autery was driving his Sheriff's patrol car home to Alabaster, Shelby County, and I recommended that this practice be eliminated because the citizens of Chilton County did not want to see their tax dollars being used to maintain and fuel patrol cars in another county. I met with Robbie Autery on several occasions and directed Robbie Autery to cease patrolling only the interstate and to cease using the Sheriff's patrol car to drive back and forth to work.

8. I advised Sheriff Kevin Davis that Deputy Robbie Autery had continued to complain about Sheriff Davis' decision not to allow Deputy Autery to drive his patrol car back and forth from his home in Alabaster, AL (Shelby County) to work in Chilton County. In addition, I told Sheriff Davis of Autery's repeated disdain for Sheriff Davis' policy of not allowing a deputy to patrol only Interstate 65 in Chilton County. Sheriff Davis and I determined that the Office of Sheriff should be responsible for covering the entirety of Chilton County and that all deputies should share this responsibility equally.

9. After issuing these directives to Robbie Autery and Shane Fulmer, I repeatedly heard of complaints by both officers. I reported to Sheriff Davis that I was concerned that due to the repetitive nature of the complaints, that there was a morale problem in the office. Sheriff Davis told me that he wanted to work with both of these officers, if possible. In law enforcement, however, closeness and cooperation between a sheriff and his deputies is vital and necessitates that a sheriff have absolute authority over implementation of goals, policies and procedures. In addition, in the business of law enforcement, it is important for officers to be able to rely upon one another and, when called upon, to back up their fellow officers. Deputy Robbie Autery's constant complaints about his displeasure with Sheriff Davis' interstate policy were affecting his performance on the job and had a negative impact on the morale in and efficiency of the Office

of Sheriff of Chilton County. I was concerned based upon the actions of both Robbie Autery and Shane Fulmer that there would be a security problem as long as they were employed by Sheriff Davis. I recommended to Sheriff Davis that both Robbie Autery and Shane Fulmer be terminated due to their negative effect on morale in the office as well as my concern for the safety of other officers who supported Sheriff Davis.



SHANE MAYFIELD

STATE OF ALABAMA)
)
CHILTON COUNTY)

SWORN TO and SUBSCRIBED before me on this the 28th day of May, 2008.



Corrie Barr Strickland
NOTARY PUBLIC
My Commission Expires: 9/22/08

EXHIBIT C

FREEDOM COURT REPORTING

Page 1

IN THE CIRCUIT COURT OF
CHILTON COUNTY, ALABAMA
CIVIL ACTION NO.: CV-2007-900130

ROBBIE AUTERY and
SHANE FULMER,

Plaintiffs,

VS.

KEVIN DAVIS, in his
official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
CIVIL ACTION NO.: 2:08-CV-41-WC

ROBBIE AUTERY and
SHANE FULMER,

Plaintiffs,

VS.

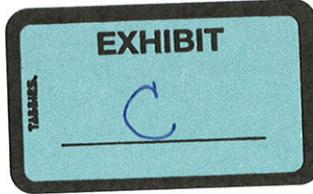
KEVIN DAVIS, in his
official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

DEPOSITION OF ROBBIE AUTERY

STIPULATIONS

IT IS STIPULATED AND



367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 2

1 AGREED, by and between the parties,
2 through their respective counsel,
3 that the deposition of ROBBIE AUTERY
4 may be taken before Karen Davis, CCR,
5 Commissioner, State of Alabama at
6 Large, at the Chilton County
7 Courthouse, 200 2nd Avenue North,
8 Clanton, Alabama, on the 16th day of
9 May, 2008, commencing at or about
10 9:03 a.m.

11 IT IS FURTHER STIPULATED
12 AND AGREED that the reading and
13 signature to the deposition by the
14 witness is waived, said deposition to
15 have the same force and effect as if
16 full compliance had been had with all
17 laws and rules of court relating to
18 taking of depositions.

19 IT IS FURTHER STIPULATED
20 AND AGREED that it shall not be
21 necessary for any objections to be
22 made by counsel as to any questions,
23 except as to form or leading

FREEDOM COURT REPORTING

Page 3

1 questions, and that counsel for the
2 parties may make objections and
3 assign grounds at the time of the
4 trial, or at the time said deposition
5 is offered in evidence, or prior
6 thereto.

7 IT IS FURTHER STIPULATED
8 AND AGREED that notice of filing of
9 the deposition by the Commissioner is
10 waived.

11
12
13
14
15
16
17
18
19
20
21
22
23

FREEDOM COURT REPORTING

Page 9

1 A. October the 14th, 2007.

2 Q. And your supervisor?

3 A. I guess that would be my
4 corporal or--- my immediate
5 supervisor would be Corporal Martin.

6 Q. And how did you find out
7 about the position at the Alabama
8 Department of Public Safety?

9 A. Through a family member.

10 Q. Who was?

11 A. Billy Fulmer.

12 Q. And that's Billy Wayne
13 Fulmer?

14 A. Yes, sir. Billy Wayne
15 Fulmer, Jr.

16 Q. And when did you find out
17 about the position?

18 A. He had been talking to me
19 for awhile about maybe coming to the
20 state troopers, so probably---

21 Q. Approximately.

22 MR. YAGHMAI: Nobody
23 wants you to guess, but to the best

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

fc5df9a8-7c7d-4dbf-b461-18d541d382f8

FREEDOM COURT REPORTING

Page 18

MR. SHEEHAN: I'll mark
that.

MR. YAGHMAI: Okay. That will be Exhibit No. 1.

(Whereupon the document
is marked D-1 for identification by
the reporter).

Q. Let me show you what's been marked Defendant's Exhibit No. 1 and ask you, can you tell me what that is?

A. This is a letter from the Personnel Manager, Ms. Brasher, and it's saying that I was hired, I believe part time, October the 3rd, 2005. I began to work full time with the Sheriff's Department on June the 19th, when I was terminated on September the 10th, 2007.

MR. YAGHMAI: June 19th

A. June 19th was 2006. I'm sorry.

FREEDOM COURT REPORTING

Page 21

1 I wasn't employed.

2 MR. YAGHMAI: Are you
3 asking at any point did he work for
4 Sheriff Fulmer?

5 MR. SHEEHAN: Yes.

6 That's a good question.

7 MR. YAGHMAI: At any
8 point did you work for Sheriff
9 Fulmer?

10 THE DEPONENT: Not on the
11 payroll. I was a reserve deputy
12 before I came on the payroll.

13 MR. YAGHMAI: Sorry. I
14 didn't mean to interrupt.

15 MR. SHEEHAN: That's a
16 good question.

17 Q. So the first time you
18 worked for the Chilton County
19 Sheriff's Department was under
20 Sheriff Kevin Davis?

21 A. No, sir. Billy Wayne
22 Fulmer.

23 Q. When did you go to work

FREEDOM COURT REPORTING

Page 22

1 with Billy Wayne Fulmer as Sheriff?

2 A. October the 3rd, 2005 as
3 a part-time position.

4 Q. What did you do while
5 working under Sheriff Fulmer?

6 A. As a part-time position,
7 would fill in vacancies.

8 Q. And what were your duties
9 and responsibilities?

10 A. Regular routine patrol.
11 Answering calls and assisting
12 citizens.

13 Q. The same thing you did
14 when you went to work for Sheriff
15 Davis.

16 A. Yes.

17 Q. Fair enough. So that I'm
18 clear then, your duties did not
19 change after Sheriff Davis took
20 office?

21 A. My overall job
22 description, no, sir.

23 Q. I think I'm

FREEDOM COURT REPORTING

Page 46

1 A. Yes, sir.

2 Q. And to whom?

3 A. Deputy Chief Mayfield.

4 Q. You told us about what he
5 had to say about your complaint about
6 Shane Fulmer.

7 A. No, sir. This is--- this
8 is on the complaint to where I wasn't
9 able to drive my patrol car home.

10 Q. I'm sorry. Did you take
11 the complaint about Shane Fulmer
12 being courthouse security to Captain
13 Tate?

14 A. No, sir. I never did
15 formally take that anywhere. That
16 was just a conversation among
17 coworkers.

18 Q. You've identified those
19 coworkers that you discussed that
20 complaint with?

21 A. Yes, sir. I mean
22 everybody was--- was basically just
23 saying that they saw that--- they

FREEDOM COURT REPORTING

Page 47

1 felt like it was a political reason.

2 Q. Who was it that said that
3 they felt it was political reasons?

4 A. Mike Poe. Champ Benson.
5 Charlie Sanders. Gerald Purvis.
6 Shane Aldridge. Steve Tate. Who
7 else? That's all I can recall
8 amongst my coworkers.

9 Q. So that I'm clear then,
10 you didn't take the complaint about
11 Shane Fulmer going to Courthouse
12 Security up the chain of command.

13 A. No, sir.

14 Q. I'm sorry, did you take
15 your concern about Shane Fulmer up
16 the chain of command?

17 A. No, sir.

18 Q. The only complaint you
19 took up the chain of command was
20 about---

21 A. The patrol vehicle.

22 Q. Thank you. So now you've
23 told us--- help me: What did you

FREEDOM COURT REPORTING

Page 55

1 Q. Okay. Did you bring the
2 issue back up with anyone?

3 A. I'm sure I did. I don't
4 recall who all I talked to about it
5 but I'm sure I did.

6 Q. Who was the next person
7 you spoke with?

8 A. I don't even recall.

9 Q. Okay. What was the next
10 thing that happened?

11 A. I'm trying to think.

12 MR. YAGHMAI: When we get
13 to a good stopping point, can we take
14 a quick break?

15 MR. SHEEHAN: Sure.
16 Let's just finish this line of
17 questioning.

18 A. When you say the last
19 thing that happened, in regards to
20 what?

21 Q. This issue about you not
22 being able to drive your car. And
23 the follow-up about---

FREEDOM COURT REPORTING

Page 102

1 A. Yes, sir.

2 Q. And that's all you did?

3 A. Yes, sir.

4 Q. You didn't work through
5 the chain of command?

6 A. No, sir.

7 Q. Other than Sherry Tate,
8 did you tell anyone else about this
9 unethical conduct by Kevin Davis?

10 A. There was several
11 employees that discussed I guess
12 purchasing the dogs through Central
13 Alabama K9.

14 Q. Who was that, sir?

15 A. Mike Poe. I even
16 mentioned it to Captain Steve Tate.
17 All these were like--- there wasn't
18 no meeting or anything like that. It
19 was just like informal, like just a
20 group of guys.

21 Q. When did you have this
22 discussion with Mike Poe?

23 A. It will be sometime

FREEDOM COURT REPORTING

Page 121

1 come outside. Before I could say
2 anything to him, he said I need to
3 see you. He and I come up here to
4 the courthouse in his office and he
5 told me that he had heard I was
6 talking about him on the street, and
7 he wasn't going to tolerate it no
8 more. And I told him, I said, well,
9 the issue at hand was I couldn't get
10 out on my radio and I told them that
11 I was going to come talk to you. He
12 said yeah, they told me you said
13 that. I said yes, sir, that's why I
14 come down here, to talk to you,
15 because we've got to do something
16 about the radio system. And he said,
17 well, if you would have just asked, I
18 would have told you. And he threw me
19 a piece of paper that had a quote or
20 something where they were trying to
21 get an RF-repeater. And he said
22 there again, you know, somebody from
23 the fire department or somewhere up

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

fc5df9a8-7c7d-4dbf-b461-18d541d382f8

FREEDOM COURT REPORTING

Page 150

1 basically.

2 Q. Have you now told me
3 everything that was said at that
4 meeting on September the 10th?

5 A. Basically an overview.

6 Q. Is there anything else?

7 A. I can't say word for word
8 exactly what was--- but that's
9 basically the way it is.

10 Q. Have you spoken to
11 Sheriff Davis since?

12 A. Since I've been fired?
13 No, sir.

14 Q. Who did you support in
15 the election for the Sheriff of
16 Chilton County?

17 A. Billy Wayne Fulmer.

18 Q. And why?

19 A. He's family. Also, he
20 had been doing a good job. And I
21 explained to the sheriff, when
22 Sheriff Davis told me that he was
23 going to run for sheriff, I told him

FREEDOM COURT REPORTING

Page 151

1 then I was going to support Billy
2 Wayne.

3 Q. Did you contribute any
4 money to Sheriff Fulmer's campaign?

5 A. No, sir.

6 Q. Did you work in his
7 campaign to have Sheriff Fulmer
8 elected --

9 A. Yes, sir.

10 Q. -- Sheriff? How did you
11 work on behalf of Sheriff Fulmer?

12 A. One day I went door to
13 door just asking for support to
14 re-elect Billy Wayne Fulmer.

15 Q. What day was that, sir?

16 A. During the election. I
17 can't recall what month or what day.

18 Q. Was it a full day?

19 A. I guess it was from that
20 morning until lunchtime.

21 Q. What area did you go to?

22 A. It was here in Clanton.

23 Q. Which area in Clanton?

367 VALLEY AVENUE

(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

fc5df9a8-7c7d-4dbf-b461-18d541d382f8

EXHIBIT D

FREEDOM COURT REPORTING

Page 1

IN THE CIRCUIT COURT OF
CHILTON COUNTY, ALABAMA
CIVIL ACTION NO.: CV-2007-900130

ROBBIE AUTERY and
SHANE FULMER,

Plaintiffs,

VS.

KEVIN DAVIS, in his
official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
CIVIL ACTION NO.: 2:08-CV-41-WC

ROBBIE AUTERY and
SHANE FULMER,

Plaintiffs,

VS.

KEVIN DAVIS, in his
official capacity as
Sheriff of Chilton County,
Alabama, and individually;

Defendant.

DEPOSITION OF KEVIN DAVIS

STIPULATIONS

IT IS STIPULATED AND AGREED,



367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 2

1 by and between the parties, through
2 their respective counsel, that the
3 deposition of KEVIN DAVIS may be
4 taken before Karen Davis, CCR,
5 Commissioner, State of Alabama at
6 Large, at the Chilton County
7 Courthouse, 200 2nd Avenue North,
8 Clanton, Alabama, on the 16th day of
9 May, 2008, commencing at or about
10 2:15 p.m.

11 IT IS FURTHER STIPULATED
12 AND AGREED that the reading and
13 signature to the deposition by the
14 witness is waived, said deposition to
15 have the same force and effect as if
16 full compliance had been had with all
17 laws and rules of court relating to
18 taking of depositions.

19 IT IS FURTHER STIPULATED
20 AND AGREED that it shall not be
21 necessary for any objections to be
22 made by counsel as to any questions,
23 except as to form or leading

FREEDOM COURT REPORTING

Page 3

1 questions, and that counsel for the
2 parties may make objections and
3 assign grounds at the time of the
4 trial, or at the time said deposition
5 is offered in evidence, or prior
6 thereto.

7 IT IS FURTHER STIPULATED
8 AND AGREED that notice of filing of
9 the deposition by the Commissioner is
10 waived.

11

12

13

14

15

16

17

18

19

20

21

22

23

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

85147b3a-fa37-484e-8951-c5cc6036d517

FREEDOM COURT REPORTING

Page 7

1 A. Kevin Davis.

2 Q. What's your address?

3 A. It's 430 County Road 909,
4 Clanton, Alabama, 35046.

5 Q. And where are you
6 currently employed?

7 A. I'm the Sheriff of
8 Chilton County.

9 Q. Prior to being the
10 Sheriff of Chilton County, where did
11 you work?

12 A. I worked at Maplesville
13 Police Department.

14 Q. And what was your
15 position there?

16 A. I was Chief of Police.

17 Q. How long were you the
18 Chief out there at Maplesville?

19 A. Somewhere between a year
20 and a year and a half.

21 Q. Were you in a different
22 position at Maplesville before
23 becoming the Chief?

FREEDOM COURT REPORTING

Page 8

1 A. Yes, sir.

2 Q. And what was that?

3 A. I was a Narcotics K9
4 Officer.

5 Q. How long were you a
6 Narcotics K9 Officer?

7 A. Somewhere between three
8 and four years.

9 Q. Prior to being a
10 Narcotics K9 Officer at Maplesville,
11 did you occupy another position while
12 you were there at Maplesville?

13 A. I helped out some with
14 the Volunteer Fire Department there,
15 but that's---

16 Q. Prior to working at
17 Maplesville, were you involved in law
18 enforcement?

19 A. Yes, sir.

20 Q. Where was that?

21 A. At the Sheriff's Office
22 here in Chilton County.

23 Q. And what time frame are

FREEDOM COURT REPORTING

Page 9

1 we talking about then?

2 A. More than four years ago.

3 Q. All right. Well, how
4 long were you involved at Chilton
5 County the first time you were here?

6 A. Approximately six years.

7 Q. And what was your job
8 with Chilton County then?

9 A. I was a Deputy Sheriff.

10 Q. So when did you start
11 working for Chilton County?

12 A. Probably around--- it was
13 in January of either--- January of
14 '97, I think it was. Either '96 or
15 '97. I know it was January of '96 or
16 '97.

17 Q. And prior to working in
18 Chilton County in '96 or '97, were
19 you in law enforcement?

20 A. Yes, sir.

21 Q. And where was that?

22 A. At Maplesville Police
23 Department.

FREEDOM COURT REPORTING

Page 10

1 Q. At where?

2 A. Maplesville.

3 Q. And when was that from?

4 A. From the time I graduated
5 the Academy until I took the job at
6 the Sheriff's Office.

7 Q. When did you graduate the
8 Academy?

9 A. '94? Around the summer
10 of '94.

11 Q. All right. So prior to
12 going to the Academy, what was your
13 educational background?

14 A. High school education.

15 Q. Where did you graduate
16 from high school?

17 A. Isabella High School.

18 Q. While you were in high
19 school, were you employed or involved
20 with law enforcement?

21 A. I worked for the town of
22 Maplesville, but it was not law
23 enforcement then.

FREEDOM COURT REPORTING

Page 26

1 them, no, sir.

2 Q. Did you have any
3 communications when you first came
4 into office in '07 with the Chief
5 Deputy about the personnel in the
6 Sheriff's Department?

7 A. Yes, sir.

8 Q. And when would that have
9 been; before you actually got sworn
10 in or after you got sworn in?

11 A. It would have been,
12 probably, if I remember right, it was
13 right before I was sworn in.

14 Q. All right. Can you tell
15 me what the time frame is when your
16 victory was actually certified? Do
17 you remember what date that was?

18 A. I don't remember.

19 Q. Do you remember what
20 month it was?

21 A. It was all over in
22 December.

23 Q. All right. So in

FREEDOM COURT REPORTING

Page 27

1 December of '06, your victory had
2 been certified, correct?

3 A. Right.

4 Q. And when did you actually
5 get sworn in?

6 A. I think it was January
7 the 17th. It may be a day or two
8 off, but I think it was the 17th of
9 January '07.

10 Q. Somewhere in that time
11 frame from December '06 to January
12 17th of '07, that's when you talked
13 with Chief Deputy Mayfield --

14 A. Right.

15 Q. -- about personnel
16 decisions?

17 A. Right.

18 Q. Where did this
19 conversation take place?

20 A. In the chief's office, or
21 in the--- it was Sheriff Fulmer's
22 office at the time, at the jail.

23 Q. After you had been

FREEDOM COURT REPORTING

Page 28

1 certified as the victor to Sheriff
2 Fulmer, did y'all talk anything about
3 your transition of becoming sheriff?

4 A. Yes, sir.

5 Q. Tell me about those
6 conversations.

7 A. Me and Sheriff Fulmer
8 talked several times about, you know,
9 just make--- making transition.

10 Q. I mean he wasn't being
11 bitter or difficult, was he, about
12 the transition?

13 A. No, sir.

14 Q. In your opinion, was he
15 trying to be helpful about you coming
16 in to be the Sheriff?

17 A. I think it went very
18 well, the transition.

19 Q. And did he make a
20 recommendation or suggestion to you
21 to meet with Chief Deputy Mayfield
22 and discussion whatever issues you
23 may deem necessary?

FREEDOM COURT REPORTING

Page 32

1 A. No, sir. I knew the
2 quality of Robbie's work for myself.

3 Q. So it was good quality,
4 correct?

5 A. Yes.

6 Q. And at that point you
7 didn't have any issue with Robbie
8 working the Interstate?

9 A. Yes, sir. I had a
10 problem with it.

11 Q. As soon as you walked in
12 the door you did?

13 A. Yes, sir.

14 Q. Why is that?

15 A. Because in our county,
16 one of the things that I campaigned
17 on is that we would be a--- a
18 countywide law enforcement agency,
19 not just the Interstate. And that I
20 had--- that, you know, we were going
21 to patrol the whole county, not just
22 stay on the Interstate and catch
23 calls from the Interstate. And that

FREEDOM COURT REPORTING

Page 33

1 was my issue. It didn't have
2 anything personal to do with Robbie.
3 It wasn't just Robbie on the
4 Interstate. It was multiple people.

5 Q. Who else was on the
6 Interstate that you had a problem
7 with?

8 MR. SHEEHAN: Object to
9 the form.

10 A. I mean anyone that was
11 out there.

12 Q. Well, who else was out
13 there that you were having the issues
14 with? You identified Robbie Autery
15 as having an issue with him when you
16 first walked through the door.

17 MR. SHEEHAN: Excuse me.

18 A. My alarm went off. Sorry
19 about that.

20 Q. Do you need to check on
21 it?

22 A. No.

23 Q. Who else did you have an

FREEDOM COURT REPORTING

Page 40

1 A. No. It was before that.

2 Q. Were they there at that
3 meeting?

4 A. Yes, sir.

5 Q. Both of them?

6 A. Yes, sir.

7 Q. When you were going down
8 this list with Chief Deputy Mayfield,
9 did you all discuss Shane Fulmer?

10 A. Yes, sir.

11 Q. Tell me about that
12 discussion.

13 A. We just--- he was one of
14 the guys that we discussed. You
15 know, we were going down the names.
16 A list of--- he was basically telling
17 me what everybody does at the
18 Sheriff's Office.

19 Q. What did he tell you that
20 Shane Fulmer did?

21 A. He told me he was over
22 the General Investigations and the---
23 and the Task Force.

FREEDOM COURT REPORTING

Page 41

1 Q. He didn't say anything
2 bad about the way he did his job, did
3 he?

4 A. He said he didn't work.

5 Q. He said he didn't work?

6 A. Yes, sir.

7 Q. How did he not work?

8 A. He don't carry his work
9 load, is what the chief had
10 explained.

11 Q. And did you ask him to
12 elaborate on how he didn't keep his
13 work load?

14 A. He just said he, you
15 know, he was in General
16 Investigations, didn't work no cases
17 in Investigations and was on the Task
18 Force and didn't work no drug cases.

19 Q. So according to Chief
20 Deputy Mayfield, said he had actually
21 zero cases that he worked on.

22 A. He didn't say zero.

23 Q. Well, if he's not no case

FREEDOM COURT REPORTING

Page 111

1 sure that everything is done properly
2 to follow what you wanted to follow,
3 which was the merit bill, correct?

4 MR. SHEEHAN: Object to
5 the form.

6 A. Yes, sir.

7 Q. And what did the County
8 Attorney tell you?

9 A. The County Attorney told
10 me that there was not a merit system
11 for the County until that board was
12 put in place.

13 Q. And did he explain to you
14 why?

15 A. He said there was no
16 merit board. He said without a merit
17 board, it went back to the state law
18 that says the deputy sheriff works at
19 the sheriff's discretion.

20 Q. Did you ask him how do we
21 go about getting the board appointed?

22 A. Yes, sir.

23 Q. You told him, I want to

FREEDOM COURT REPORTING

Page 126

1 A. Not to my knowledge.

2 Q. And why is that?

3 A. I felt like I had done
4 went and asked.

5 Q. Was it also the thought
6 that in your mind that gave you the
7 green light to fire whoever you
8 wanted to without following this
9 merit bill?

10 A. That's not correct.

11 Q. You started people that;
12 didn't you? You started telling some
13 of the sheriff's deputies, hey, there
14 is no merit board, there is no merit
15 bill, I can fire whoever I want to.

16 MR. SHEEHAN: Object to
17 the form.

18 A. No, I didn't go around
19 threatening that I was going to fire
20 everybody.

21 Q. You already told us---

22 A. I said we just don't have
23 a merit board in place. Yeah,

FREEDOM COURT REPORTING

Page 127

1 according to what John Hollis
2 Jackson, the County Attorney, told
3 me, that I did have the authority to
4 fire, but I mean--- because this
5 board wasn't in place.

6 Q. But you already told us
7 you didn't go back to the Commission
8 and discuss it. You already told us
9 you didn't go back to the County
10 Attorney and discuss it. What you
11 ended up doing was you told Shane
12 Fulmer at least on one occasion that
13 there was no merit board and you
14 could fire him if you wanted to,
15 correct?

16 MR. SHEEHAN: Object to
17 the form.

18 A. Correct.

19 Q. And you told Robbie
20 Autery that there's no merit board
21 and you could fire him if you wanted
22 to, correct?

23 MR. SHEEHAN: Object to

FREEDOM COURT REPORTING

Page 130

1 A. Now? No.

2 Q. Now you wouldn't?

3 A. No.

4 Q. You would want the
5 sheriff to come in and do whatever he
6 wanted to and fire you?

7 A. It's better than this
8 bill.

9 Q. You wouldn't want--- if
10 you were a sheriff's deputy, you
11 wouldn't want any protection of
12 somebody new coming in and firing
13 you?

14 A. Not if this is the way it
15 is.

16 Q. Well, the way this is, is
17 it ensures that there's due process,
18 that you can't just randomly fire
19 people, correct?

20 MR. SHEEHAN: Object to
21 the form.

22 A. If this is in place.

23 Q. And to you that's a bad

FREEDOM COURT REPORTING

Page 131

1 thing, right?

2 MR. SHEEHAN: Object to
3 the form.

4 A. No, I don't think it's a
5 bad thing. I made a stance all along
6 that I don't think someone just
7 should just come in and fire. But at
8 the same time, I don't think that a
9 merit board dictating to the Sheriff
10 how to run his department is a good
11 thing. Because like I said, the
12 liability and the responsibility to
13 the County and the people of the
14 County is not going to fall back on
15 these members of this board. It's
16 going to fall back on the Sheriff.

17 Q. Why do you say that?

18 A. It's obvious. The
19 deputies are an arm of the Sheriff's
20 Office and me. And when it comes to
21 liability or responsibility or what
22 the County requires us to do, then
23 this board is not going to be the one

FREEDOM COURT REPORTING

Page 132

1 held liable for it. It's going to be
2 me. So why should I be trying to
3 direct and send my department in a
4 direction because somebody don't like
5 it they look at me and say I don't
6 have to do it because I got a merit
7 board.

8 Q. So it's your opinion that
9 if that merit bill or merit board is
10 in place, that deputies can just say,
11 I don't have to do what you tell me.

12 A. Yes, sir.

13 Q. And why is that?

14 A. Because that's some of
15 the attitudes that people have.

16 Q. Well, who has had that
17 attitude?

18 A. Just deputies feel like
19 that they can, you know, before you
20 can do anything or take any actions
21 or do anything, that you got to---
22 you've got to have it approved and
23 done by this board before you do

FREEDOM COURT REPORTING

Page 154

1 didn't have--- you didn't know of any
2 reason that would allow you from---
3 to refuse to appoint somebody,
4 correct?

5 MR. SHEEHAN: Object to
6 the form.

7 A. Before the lawsuit--- ask
8 that again.

9 Q. Before the lawsuit---
10 well, strike that.

11 Let me ask it this way:
12 If Plaintiff's Exhibit No. 1 is
13 constitutional, would you agree that
14 you violated the merit board when you
15 fired Shane Fulmer? The merit bill,
16 when you fired Shane Fulmer.

17 MR. SHEEHAN: Object to
18 the form.

19 A. No. I wouldn't say that.

20 Q. All right. Tell me how
21 you didn't violate the merit bill
22 when you fired Shane Fulmer.

23 A. Because there was not a

FREEDOM COURT REPORTING

Page 155

1 board in place.

2 Q. Tell me how you didn't
3 violate the merit bill when you fired
4 Robbie Autery.

5 A. Because the merit board
6 wasn't in place.

7 Q. But that was you not
8 putting somebody on the merit board,
9 correct? As one of the bodies not
10 putting somebody on the merit board,
11 correct?

12 MR. SHEEHAN: Object to
13 the form of the question.

14 A. That was based on mine
15 and Mr. Jackson's conversation saying
16 until that board is put in place,
17 then there's not a merit system for
18 Chilton County.

19 Q. And you understood it at
20 that point, hey, I don't have to
21 follow this piece of legislation
22 until I do something to effectuate
23 the board, correct?

FREEDOM COURT REPORTING

Page 241

1 A. I don't know if I am.

2 Q. You don't know?

3 A. I never studied the
4 website, to be honest. She ain't had
5 the website out but a short period of
6 time.

7 Q. Who puts it up; she does?

8 A. She did.

9 Q. She did it from scratch?

10 A. Right.

11 Q. Did anybody tell you that
12 Robbie Autery was out there
13 badmouthing you on the street?

14 A. I don't remember hearing
15 a whole lot as far as Robbie
16 badmouthing me on the street. Just
17 from officers is all.

18 Q. Who did you hear from?

19 A. I heard from--- from
20 Captain Tate.

21 Q. What did Captain Tate
22 tell you that Robbie Autery was out
23 there badmouthing you about?

FREEDOM COURT REPORTING

Page 242

1 A. The biggest thing that
2 Robbie had was over the Interstate
3 deal. And then later on over--- over
4 his car.

5 Q. So Captain Tate told you
6 that Robbie said he was upset about
7 it?

8 A. Right.

9 Q. Robbie had told you he
10 was upset about those two issues
11 himself; didn't he?

12 A. Right.

13 Q. Who else told you that
14 Robbie Autery was out there
15 badmouthing you?

16 A. Eric Smitherman had
17 mentioned it. Mike Poe.

18 Q. What did Eric Smitherman
19 tell you that Robbie Autery had said
20 about you?

21 A. He just said that Robbie
22 was upset and mad because he didn't
23 get to stay on the Interstate and

FREEDOM COURT REPORTING

Page 243

1 work the Interstate like he, you
2 know, he liked, and he didn't like
3 working the areas, just like Robbie
4 said earlier. And, you know, he
5 just--- that he didn't like the way
6 things I was doing in the Sheriff's
7 Office.

8 Q. Now, are you saying that
9 your employees shouldn't be able to
10 voice to other employees if they're
11 not happy about an issue, such as the
12 car?

13 A. Not--- I don't think
14 they should.

15 Q. So if they're unhappy
16 about some issue, for example, the
17 patrol car, they should just keep
18 their mouth shut and go on?

19 A. Well, for the two
20 sheriffs I worked for, I mean the
21 sheriffs got to make decisions in the
22 direction he wants the department to
23 go in. And, you know, us as deputies

FREEDOM COURT REPORTING

Page 244

1 had to go in that direction. And I
2 don't think what happened was--- just
3 because we don't like the decisions
4 that's made, we can't keep morale
5 beat down and knocked down and try to
6 get other people to go in that
7 direction with us.

8 Q. You're not saying Robbie
9 Autery beat down morale because he
10 complained about the car issue and
11 the Interstate interdiction; are you?

12 A. Yes, sir.

13 Q. He was able to beat down
14 the entire Chilton County Sheriff's
15 Department morale complaining about
16 these two issues?

17 A. I'm not saying he beat
18 down the whole Chilton County
19 Sheriff's Department. I said it
20 affected the morale in the
21 department.

22 Q. Wasn't there other people
23 complaining besides Robbie Autery and

FREEDOM COURT REPORTING

Page 248

1 remember folks saying that Robbie
2 complained about; Interstate, the car
3 and the zones, correct?

4 A. To my knowledge.

5 Q. What about Shane Fulmer;
6 who came to you and said Shane Fulmer
7 was out there badmouthing you?

8 A. Mike Poe.

9 Q. What did Mike Poe say
10 that Shane was out there talking
11 about?

12 A. Shane just said--- it was
13 the same morale issues, saying that
14 the department, you know, is going
15 to, you know, just going down the
16 drain, that, you know, I was going to
17 shut the Task Force down because it
18 was something that Sheriff Fulmer
19 started and I was, you know, against
20 it.

21 Q. Does the Task Force still
22 exist?

23 A. Yes, sir.

FREEDOM COURT REPORTING

Page 249

1 Q. Has it been reduced in
2 number? Has the---

3 MR. SHEEHAN: Do you want
4 him to answer the question?

5 MR. YAGHMAI: I'm trying
6 to ask the question.

7 MR. SHEEHAN: I just want
8 the record to be clear that you
9 interrupted him.

10 MR. YAGHMAI: The only
11 person interrupting is you. I'm
12 trying to get through this. I didn't
13 interrupt you when you were
14 questioning.

15 MR. SHEEHAN: Object to
16 the form.

17 MR. YAGHMAI: Great.
18 Object to the form.

19 Q. Mike Poe came to you on
20 how many occasions about Shane Fulmer
21 out there supposedly badmouthing you?

22 A. Half a dozen, at least.

23 Q. Did anybody come to you

FREEDOM COURT REPORTING

Page 250

1 and tell you Mike Poe is out there
2 complaining about the way that the
3 department was being run when you
4 took over?

5 A. Not that I recall.

6 Q. Has anybody else told you
7 that anybody other than Robbie or
8 Shane was out there complaining about
9 things?

10 A. When I first come into
11 the office, everybody had a general
12 concern. I knew that. Anytime a new
13 sheriff comes into office, there was
14 a concern about what's going to be
15 different, what's going to be
16 changed, you know.

17 Q. On the Task Force, how
18 much has it been reduced since you
19 took over as the Sheriff?

20 A. I don't know that it has
21 been reduced. I don't know how many
22 was on it prior to me being there. I
23 mean I know some people had one job

FREEDOM COURT REPORTING

Page 251

1 but they assisted with the Task Force
2 and, you know, different things. So
3 I don't know how much, you know.

4 Q. Other than Mike Poe, who
5 came to you about Shane Fulmer
6 supposedly badmouthing you?

7 A. Chief Mayfield.

8 Q. What did Chief Mayfield
9 tell you?

10 A. We can't do nothing with
11 morale because Shane comes into---
12 and he was over Investigations and
13 investigators. All they want to do
14 is their job, and Shane wants to come
15 in every day setting off things and
16 complaining about the Sheriff.

17 Q. When did Mayfield come to
18 tell you that?

19 A. Several different
20 occasions over the course of the
21 early part of '07.

22 Q. Did you ever go to Shane
23 and say, look, people are complaining

FREEDOM COURT REPORTING

Page 254

1 Q. Who else besides
2 Mayfield?

3 A. Well, Mr. Caton said, you
4 know, he come to me about the meeting
5 that they had.

6 Q. About the merit bill?

7 A. Right.

8 Q. What did Caton tell you?

9 A. He said that Shane was
10 just complaining that what all was
11 going on in the department and
12 griping that he had worked hard, you
13 know, and he was being done wrong,
14 and, you know, just on and on about
15 how I was tearing down the Sheriff's
16 Office.

17 Q. And you had a problem
18 with him going to Caton to express
19 his own personal feelings on his off
20 time?

21 MR. SHEEHAN: Object to
22 the form.

23 A. Well, a deputy is 24

EXHIBIT

E

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROBBIE AUTERY and SHANE)
FULMER,)
Plaintiffs,)
v.) CIVIL ACTION NO.:
KEVIN DAVIS, in his official capacity) 2:08-CV-41-WC
as Sheriff of Chilton County, Alabama,)
and individually,)
Defendant.)

AFFIDAVIT OF MICHAEL POE

Before me, the undersigned authority, on this day personally appeared Michael Poe, who being by me first duly sworn, deposed and stated upon his oath the following:

1. My name is Michael Poe. I am over the age of 21 years, and I have personal knowledge of the information contained in this Affidavit.
2. At all material times hereto, I was a Sergeant in the Investigations Unit of the Office of the Chilton County Sheriff.
3. Shane Fulmer was my supervisor for approximately 6 (six) months after Sheriff Kevin Davis took office in January of 2007. At that time, the Investigations Unit consisted of myself, Lieutenant John Shearon and Captain Shane Fulmer.
4. During the time that Shane Fulmer was my supervisor, Captain Fulmer was not carrying his weight in terms of actively working cases. I reported to Sheriff Kevin Davis and Chief Deputy Mayfield on approximately three to four different occasions that Captain Shane



Fulmer was not doing his share of the work and that the Investigations Unit needed someone who would investigate and assist with the case work.

5. Captain Shane Fulmer's comments about Sheriff Kevin Davis were also a constant source of disruption in the Investigations Unit. On at least 15 different occasions, Captain Shane Fulmer came into my office and voiced his belief that Sheriff Davis did not know what he was doing as sheriff, and even went as far as calling Sheriff Davis a "dumbass" during several conversations.

6. Captain Shane Fulmer's conduct created a hostile and tense working environment and there were many times that I felt uncomfortable working with and under Captain Fulmer. Captain Fulmer's complaining about Sheriff Kevin Davis inhibited our Unit's ability to operate efficiently and productively.

7. Captain Shane Fulmer's comments about Sheriff Davis were not constructive in nature, nor were they aimed at improving the Investigations Unit. Rather, Captain Fulmer's comments were a personal attack on Sheriff Kevin Davis and the way he operated the Office of Sheriff of Chilton County.



MICHAEL POE

STATE OF ALABAMA)
)
CHILTON COUNTY)

SWORN TO and SUBSCRIBED before me on this the 28th day of May, 2008.



Robin E. Wilson
NOTARY PUBLIC
My Commission Expires: _____

EXHIBIT

F

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ROBBIE AUTERY and SHANE)	
FULMER,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.:
v.)	2:08-CV-41-WC
)	
KEVIN DAVIS, in his official capacity)	
as Sheriff of Chilton County, Alabama,)	
and individually,)	
)	
Defendant.)	

AFFIDAVIT OF STEVE W. TATE

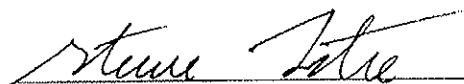
Before me, the undersigned authority, on this day personally appeared Steve Tate, who being by me first duly sworn, deposed and stated upon his oath the following:

1. My name is Steve Tate. I am over the age of 21 years, and I have personal knowledge of the information contained in this Affidavit.
2. At all material times hereto, I was a Captain in the Office of the Sheriff of Chilton County and served as the Supervisor over the Patrol Unit.
3. Ever since Sheriff Kevin Davis defeated Billy Wayne Fulmer in the 2006 election, Captain Shane Fulmer's complaints about Sheriff Davis were a continuous disruption in our unit. After Captain Fulmer was transferred to Courthouse security duty, Captain Fulmer voiced his displeasure with his job situation to me approximately 5-6 times.
4. On one particular trip to Talladega, Al, Captain Shane Fulmer continued to complain about his job duties. Upon returning to Clanton, I reported this conversation to Sheriff Kevin Davis. I told Sheriff Davis that Captain Fulmer's conduct was creating such a disruption that it



was destroying the morale in the office. I informed Sheriff Kevin Davis that there were loyalty issues among the deputies, some still supporting former Sheriff Billy Wayne Fulmer. If the problem was not resolved, a deputy could be injured if a request for backup assistance was ignored by a fellow deputy.

5. I was present in Sheriff Davis' office when Captain Shane Fulmer was relieved of his duties. On that occasion, Sheriff Davis asked Captain Fulmer several times what could be done to resolve the problems between them. Sheriff Davis also attempted to address the reports that Captain Fulmer had been voicing displeasure with his job duties and the way the office was being run by Sheriff Davis. During this conference, Captain Fulmer dodged many of Sheriff Davis' questions and blatantly refused to answer other questions asked by Sheriff Davis. At the conclusion of the meeting, Sheriff Davis asked Captain Shane Fulmer to turn in his badge.



STEVE W. TATE

STATE OF ALABAMA)
)
CHILTON COUNTY)

SWORN TO and SUBSCRIBED before me on this the 20th day of May, 2008.



NOTARY PUBLIC
My Commission Expires: 9/22/08

(SEAL)

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROBBIE AUTERY and SHANE FULMER)
Plaintiffs,)
v.) CIVIL CASE No. 2:08-CV-41-WC
KEVIN DAVIS in his official capacity)
as Sheriff of Chilton County, Alabama,)
and individually)
Defendant.)

AFFIDAVIT OF GREG PAPPAS

Before me, the undersigned authority, on this day personally appeared Greg Pappas, who being by me first duly sworn, deposed and stated upon his oath the following:

My name is Greg Pappas. I am over the age of 21 years, and I have personal knowledge of the information contained in this Affidavit.

I was elected Clerk of the State of Alabama House of Representatives in May of 1991. At all material times hereto, I am and have been the Clerk of the Alabama House of Representatives.

I have reviewed HB69 and the Publisher's Certificate of Publication from the Clanton Advertiser, which was presented to me as the Clerk of the Alabama House of Representatives. The Certificate states that the proposed bill was advertised on 6/3/01, 6/10/01, 6/17/01 and 6/24/01.

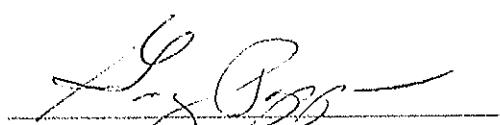
The Second Special Session of the 2001 Alabama Legislature met from June 25, 2001 to July 2, 2001.



The Third Special Session of the 2001 Alabama Legislature met from August 28, 2001 through September 19, 2001.

The Fourth Special Session of the 2001 Alabama Legislature met from December 4, 2001 through December 21, 2001.

House Bill 69 was not introduced in the first Session of the Legislature of Alabama commencing after the fourth consecutive week of publication of the notice as stated in the notice published in the Chilton County newspaper



GREG PAPPAS
Clerk, Alabama House of Representatives

STATE OF ALABAMA)
)
MONTGOMERY COUNTY)

SWORN TO and SUBSCRIBED before me on this 4th day of April, 2008.



Joe A. McPherson
NOTARY PUBLIC
My Commission Expires: 10/15/10

(SEAL)

EXHIBIT

H

Publisher's Certificate of Publication

The State of Alabama Chilton County

Personally appeared before the undersigned Notary Public in and for said county and state. Michael R. Kelley, Publisher of The Clanton Advertiser, a newspaper published at Clanton, County of Chilton, State of Alabama, who, being duly sworn, states on oath that the advertisement, a true copy of which hereto attached, was published in said newspaper in the issues of:

3 day of June, 2001
10 day of June, 2001
17 day of June, 2001
24 day of June, 2001
____ day of _____,
____ day of _____,
____ day of _____,
____ day of _____,
____ day of _____,

Publisher, The Clanton Advertiser

Sworn to and subscribed before me this
25 day of June, 2001

Notary Public, State of Alabama at
Large My Commission expires 3-15-03

A True Copy Appears Below:

Notice is hereby given that a bill substantially as follows will be introduced in the first session of the Legislature of Alabama commencing after the fourth consecutive week of publication of this notice, and application for its passage and enactment will be made:

**A BILL TO BE ENTITLED
AN ACT**

Relating to Chilton County, providing for a civil service merit system for certain employees of the office of the sheriff.

**BET IT ENACTED BY THE
LEGISLATURE OF ALA-
BAMA:**

Section 1. As used in this act, the following words have the following meanings:

(a) BOARD. The merit system board created by this act.

(b) COUNTY. Chilton County.

(c) EMPLOYEE. Any law enforcement officer, radio operator, latter, and law enforcement support personnel, not excepted by Section 3 of this act, who is employed by the sheriff.

(d) MERIT EMPLOYEE. Any employee who shall have completed one year of probationary employment.

Section 3. This act applies to all law enforcement officials and employees employed by the Office of Sheriff of Chilton County except the chief deputy.

Section 4. All employees to whom this act applies shall be governed by dismissals, suspensions, lay-offs, terminations, adopted and administered by the board. Presently employed persons shall remain in their respective employments, but nothing herein shall be construed to prevent or preclude the removal of an employee for cause as provided herein.

Section 5. (a) There is created a merit system board for the Office of the Sheriff of Chilton County, which shall become effective upon passage of this act and shall be composed of three members appointed as follows:

(1) One member appointed by the Chilton County Commission.

(2) One member appointed by the Chilton County Sheriff.

(3) One member appointed by agreement of the Chilton County Commission and the Chilton County Sheriff.

(b) The original members shall serve for terms of one, two, and four years, as determined by the drawing of lots. Thereafter, all members shall serve for a period of four years. No person shall be appointed to the board unless he or she is a resident and qualified elector of Chilton County and over the age of 21 years.

(c) Members of the board shall take the constitutional oath of office, which shall be filed in the office of the probate judge. Vacancies on the board shall be filled for the unexpired term of the vacant position in the same manner as original appointments. The members of the board shall elect a chair and secretary from among their members. Any member of the board who becomes a candidate for, or is elected or appointed to, another public office of profit must vacate his or her office as a member of the board. No board member shall be an elected official, appointed employee, or employee of the county or any municipal government.

(d) Each member of the

EXHIBIT

H

board shall serve without pay.

Section 6. (d) The board shall fix the times for its regular meetings and it may hold special adjourned, or called meetings at any time. A majority of the members of the board shall constitute a quorum for the transaction of business. All meetings of the board shall be held in the Chilton County Courthouse. The board may prescribe rules governing its procedure provided the rules are not inconsistent with this act.

(b) The board shall keep minutes of its meetings and a record of all business transacted by it. Its records, except those which the rules of the board require to be held confidential for reasons of public policy, shall be open to inspection by any resident of the county at all reasonable times.

Section 7. The Chilton County Commission shall provide the board with materials and secretarial help when needed during meetings and shall assign an area from time to time for the board meetings. It shall also provide filing cabinets and storage space for the board and shall pay all expenses incurred by the board from the general fund of the county when a claim therefore is submitted and approved by the Chilton

County Commission.

Section 8. All appointments made by the sheriff which this act applies other than temporary appointments shall be probationary for one year from the date of appointment. A probationary employee may be discharged by the sheriff to his or her pleasure at any time before the expiration of one year from his or her appointment. After the employee has served for one year in the position to which he or she was originally appointed or re-employed, the employee shall become merit employee.

Section 9. Whenever a new sheriff is elected or appointed, he or she may appoint any person as his or her chief deputy sheriff provided the person meets the minimum standards for law enforcement officers as prescribed by the general laws of the state. The person holding the position of chief deputy sheriff immediately preceding the appointment of a chief deputy may be terminated without benefit of the provisions of this act.

Section 10. The Sheriff may suspend without pay a merit employee for

any personal misconduct or fact affecting or concerning his or her fitness or ability to perform his or her duties in the public interest. In the event a merit employee is suspended without pay for more than 10 days in any one year, he or she shall be entitled to a public hearing by the board upon written demand filed within five days from the date of the order of suspension. If, after hearing, the board determines that the action of the appointing authority was not with good cause, the suspension shall be revoked.

Section 11. (a) The sheriff may remove, discharge or demote any merit employee who is directly under the sheriff, provided that within five days a report in writing of the action is made to the board giving the reason for the removal, discharge, or demotion. The employee shall have 10 days which to appeal to the board from the time of his or her notification of removal, discharge, or demotion. If an appeal is filed, the board shall thereupon order the charges or complaint to be filed forthwith in writing, if not already filed, and shall hold a hearing de novo on the charges. No merit employee shall be removed, discharged, or demoted except for some personal misconduct or fact rendering his

or her further tenure harmful to the public interest, or for some cause affecting or concerning his or her fitness or ability. The employee's removal, discharge, or demotion is appealed to the board, then the same will become final only upon affirmation by the board after a hearing where the employee has been given an opportunity to face his or her accusers and be heard in his or her own defense. Pending a hearing, the affected employee may be suspended and after the hearing the board may order the employee reinstated, demoted, removed, discharged, or take any other disciplinary action as in their judgment is warranted by the evidence and under the law. In all cases, the decision of the board shall be reduced to writing and entered in the record of the case and shall include the board's findings of facts upon which its decision is based.

(b) The board may administer oaths, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production

of papers necessary as evidence in connection with any hearing, investigation, or proceeding within the purview of this act. The sheriff or some other law enforcement officer of the county shall serve all processes of the board. In the case a person refused to obey a subpoena, the board may invoke the aid of the Circuit Court of Chilton County, to order that the testimony or evidence be produced. Upon proper showing, the court shall issue an subpoena or order requiring the person to appear before the board and produce all evidence and give all testimony relating to the matter in issue. A person who fails to obey a subpoena or order may be punished by the court for contempt. The fees of witnesses for attendance and travel shall be the same as fees for witnesses in the Circuit Court of Chilton County, and the fees shall be paid from the treasury or the county in a case involving an employee of the sheriff's department.

(c) In all proceedings before the board, the board may employ an attorney to appear before the board and prosecute all charges instituted by the sheriff when requested or directed to do so and to give any legal advice and legal assistance to the board as may be requested. The county attorney of Chilton County or the attorney for the attorney

for the appointing authority that is removing, discharging, demoting or firing the employee may serve in this capacity.

(d) Any person aggrieved by the decision of the board may appeal that decision to the Circuit Court of Chilton County within 30 days from the rendition of the decision by the board. Review by the Circuit Court shall be without a jury and be confined to the record and a determination of the questions of law presented. The board's findings of fact shall be final and conclusive.

Section 12. Each employee may exercise his or her right as a citizen to express his or her opinion and to cast his or her vote. No employee shall receive any appointment or advancement as a reward for his or her support of a candidate for office of a political party nor shall he or she be dismissed, suspended, or reduced in rank or pay as punishment for his or her failure to support any candidate for political office.

Section 13. Any merit em-

ployee who wilfully violates any provision of this act or any rule or regulation issued in pursuance hereof, shall be dismissed from service under the system and shall not be appointed or re-appointed for two years.

Section 14. All employees to whom this act applies shall be covered by the merit system one year from the effective date of this act.

Section 15. The provisions of this act are to the extent that any part of this act is declared invalid or unconstitutional, that designation shall not affect the part which remains.

Section 16. All laws of this state with this act are repealed.

Section 17. This act shall become effective upon the adoption of a local constitutional amendment to the Constitution of Alabama of 1901 relating to Chilton County and authorizing a civil service system for employees in the Office of Sheriff.

III

8/3/00 8/17/02/2001

EXHIBIT I



ELECTRONICALLY FILED
12/10/2007 4:25 PM
CV-2007-900130.00
CIRCUIT COURT OF
CHILTON COUNTY, ALABAMA
GLENN MCGRIFF, CLERK

IN THE CIRCUIT COURT OF CHILTON COUNTY, ALABAMA

ROBBIE AUTERY and SHANE)	
FULMER,)	
)	
Plaintiffs,)	
)	CIVIL ACTION NO.
v.)	
)	_____
KEVIN DAVIS, in his official capacity)	
as Sheriff of Chilton County, Alabama)	
and individually;)	
)	
Defendant.)	

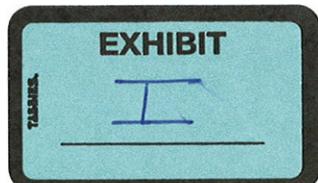
**COMPLAINT FOR DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, AND DAMAGES**

I. Parties

1. The Plaintiff, Robbie Autery (“Autery”), is an adult resident of Shelby County, Alabama and a former Deputy Sheriff in Chilton County, Alabama.
2. The Plaintiff, Shane Fulmer (“Fulmer”), is an adult resident of Chilton County, Alabama and a former Deputy Sheriff in Chilton County, Alabama.
3. Kevin Davis (“Sheriff Davis”) is the duly elected Sheriff of Chilton County, Alabama, and held the office of Sheriff at all times relevant hereto.

II. Facts

4. On January 15, 2002, the Alabama House of Representatives passed HB69, local legislation affecting Chilton County, Alabama. The Senate passed the act on February 19, 2002, and it thereafter became law. A copy of the Act is attached hereto as Exhibit 1 and made a part hereof as if fully set out herein (“hereinafter “Act”).



5. In November, 2006, Kevin Davis was elected Sheriff of Chilton County, Alabama and took office in January, 2007.

6. The Act provides for a civil service merit system for certain employees of the Office of the Sheriff of Chilton County, Alabama, said employees including the Plaintiffs in this case. Section 4 provides as follows:

All employees to whom this act applies shall be governed by merit system rules and regulations governing dismissals, suspensions, lay-offs, and terminations, adopted and administered by the board. Presently employed persons shall remain in their respective employments, but nothing herein shall be construed to prevent or preclude the removal of an employee for cause as provided herein.

7. Section 5(a) creates a merit system board for the Office of the Sheriff of Chilton County which is to become effective upon the passage of the Act and is to be composed of three members, one appointed by the Chilton County Commission, one appointed by the Chilton County Sheriff, and one appointed jointly by the Commission and the Sheriff.

8. Sheriff Davis has failed and refused since his election as Sheriff to perform the duties required of him by the Act. Sheriff Davis has failed to appoint a member of the board as required by Section 5(a)(2) and has failed to cooperate with the Chilton County Commission in jointly naming another member of the board as required by Section 5(a)(3).

9. The Plaintiffs aver that Sheriff Davis has failed and refused to make the appointments required by the Act because he desires to make personnel decisions for the Office of Sheriff without any interference by the said board or compliance with the requirements of Section 4 of the Act. On September 10, 2007, Sheriff Davis fired Shanc

Fulmer and Robbie Autery. The Plaintiffs were fired by the Sheriff without cause and without compliance with the merit system rules and regulations governing dismissals and termination which were to be adopted and administered by the board.

10. Plaintiffs further aver that Sheriff Davis has taken arbitrary and adverse personnel actions in the Office of Sheriff of Chilton County affecting certain employees of the Sheriff's office intended by the Act to be protected from such actions.

11. Plaintiffs aver that unless this Court grants a declaratory judgment holding that Sheriff Davis is required by state law to appoint the board members referred to above and issuing an injunction requiring him to do so, that Sheriff Davis will continue to ignore the Act and will continue to make decisions which are adverse to those employees of the Sheriff's Department intended to be protected by the Act without compliance with the Act.

12. Plaintiffs claim damages for their wrongful termination and restoration to their former jobs with back pay and benefits as the result of their unlawful discharge and termination by Sheriff Davis.

III. Causes of Action

Count One

13. Plaintiff adopts all of the allegations of this Complaint as a part of this Count One as if fully set out herein.

14. Plaintiffs pray that pursuant to Rule 57, *Alabama Rules of Civil Procedure*, the Plaintiff is entitled to a declaratory judgment declaring that Sheriff Davis is required by state

law to immediately and forthwith act on the appointment of the board members referred to above arising from the said Act.

Count Two

15. Plaintiffs adopt all of the allegations of this Complaint as a part of this Count Two as if fully set out herein.

16. Plaintiffs claim that pursuant to Rule 65, *Ala.R.Civ.P.*, they are entitled to a permanent injunction ordering and requiring Sheriff Davis to immediately and forthwith act on the obligation to appoint the above-referenced board members as prescribed by Section 5 of the Act and that following the trial of this case this Court will issue such a permanent injunction.

Count Three

17. Plaintiffs adopt all of the allegations of this Complaint as a part of this Count Three as if fully set out herein.

18. Plaintiffs aver that they are entitled to damages in the form of back pay and benefits for their said wrongful termination and discharge and for such other damages as the jury may determine.

Respectfully submitted,

s/William E. Rutledge
William E. Rutledge (RUT001)
williamerutledge@aol.com

s/Gregory F. Yaghmai
Gregory F. Yaghmai (YAG001)
yaghmai@rylaw.net

Attorneys for Plaintiffs

OF COUNSEL:

RUTLEDGE & YAGHMAI
3800 Colonnade Parkway
Suite 490
Birmingham, AL 35243
T: (205) 969-2868
F: (205) 969-2862

PLAINTIFFS DEMAND A TRIAL BY JURY OF ALL ISSUES TRIABLE BY JURY.

s/William E. Rutledge

William E. Rutledge

PLAINTIFFS' ADDRESSES:

Robbie Autery
158 Belvedere Place
Alabaster, AL 35007

Shane Fulmer
115 County Road 941
Clanton, AL 35045

DEFENDANT'S ADDRESS:

Sheriff Kevin Davis
Chilton County Sheriff's Department
500 2nd Avenue North
Room 204
Clanton, AL 35045

SERVE DEFENDANT BY CERTIFIED MAIL

EXHIBIT “1”

1 HB69
2 39947-2
3 By Representative Martin (N & P)
4 RFD: Local Legislation
5 First Read: 08-JAN-2002
6 PFD 01/07/2002

HB69

1

2 Enrolled, An Act,

3 Relating to Chilton County; providing for a civil
4 service merit system for certain employees of the office of
5 the sheriff.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall apply only in Chilton
8 County.

9 Section 2. As used in this act, the following words
10 have the following meanings:

11 (a) BOARD. The merit system board created by this
12 act.

13 (b) COUNTY. Chilton County.

14 (c) EMPLOYEE. Any law enforcement officer, radio
15 operator, jailer, and law enforcement support personnel, not
16 excepted by Section 3 of this act, who is employed by the
17 sheriff.

18 (d) MERIT EMPLOYEE. Any employee who shall have
19 completed one year of probationary employment.

20 Section 3. This act applies to all law enforcement
21 officials and employees employed by the Office of Sheriff of
22 Chilton County except the chief deputy.

23 Section 4. All employees to whom this act applies
24 shall be governed by merit system rules and regulations
25 governing dismissals, suspensions, lay-offs, and terminations,

HB69

1 adopted and administered by the board. Presently employed
2 persons shall remain in their respective employments, but
3 nothing herein shall be construed to prevent or preclude the
4 removal of an employee for cause as provided herein.

5 Section 5. (a) There is created a merit system board
6 for the Office of the Sheriff of Chilton County, which shall
7 become effective upon passage of this act and shall be
8 composed of three members appointed as follows:

9 (1) One member appointed by the Chilton County
10 Commission.

11 (2) One member appointed by the Chilton County
12 Sheriff.

13 (3) One member appointed by agreement of the Chilton
14 County Commission and the Chilton County Sheriff.

15 (b) The original members shall serve for terms of
16 one, two, and four years, as determined by the drawing of
17 lots. Thereafter, all members shall serve for a period of four
18 years. No person shall be appointed to the board unless he or
19 she is a resident and qualified elector of Chilton County and
20 over the age of 21 years.

21 (c) Members of the board shall take the
22 constitutional oath of office, which shall be filed in the
23 office of the probate judge. Vacancies on the board shall be
24 filled for the unexpired term of the vacant position in the
25 same manner as original appointments. The members of the board

HB69

1 shall elect a chair and secretary from among their members.
2 Any member of the board who becomes a candidate for, or is
3 elected or appointed to, another public office of profit must
4 vacate his or her office as a member of the board. No board
5 member shall be an elected official, appointed employee, or
6 employee of the county or any municipal government.

7 (d). Each member of the board shall serve without
8 pay.

9 Section 6. (a) The board shall fix the times for its
10 regular meetings and it may hold special, adjourned, or called
11 meetings at any time. A majority of the members of the board
12 shall constitute a quorum for the transaction of business. All
13 meetings of the board shall be held in the Chilton County
14 Courthouse. The board may prescribe rules governing its
15 procedure provided the rules are not inconsistent with this
16 act.

17 (b) The board shall keep minutes of its meetings and
18 a record of all business transacted by it. Its records, except
19 those which the rules of the board require to be held
20 confidential for reasons of public policy, shall be open for
21 inspection by any resident of the county at all reasonable
22 times.

23 Section 7. The Chilton County Commission shall
24 provide the board with materials and secretarial help when
25 needed during meetings and shall assign an area from time to

HB69

1 time for the board meetings. It shall also provide filing
2 cabinets and storage space for the board and shall pay all
3 expenses incurred by the board from the general fund of the
4 county, when a claim therefor is submitted and approved by the
5 Chilton County Commission.

6 Section 8. All appointments of employees to which
7 this act applies, other than temporary appointments, shall be
8 probationary for one year from the date of appointment. A
9 probationary employee may be discharged by the sheriff at his
10 or her pleasure at any time before the expiration of one year
11 from his or her appointment. After the employee has served for
12 one year in the position to which he or she was originally
13 appointed or employed, the employee shall become a merit
14 employee.

15 Section 9. Whenever a new sheriff is elected or
16 appointed, he or she may appoint any person as his or her
17 chief deputy sheriff, provided the person meets the minimum
18 standards for law enforcement officers as prescribed by the
19 general laws of the state. The person holding the position of
20 chief deputy sheriff immediately preceding the appointment of
21 a chief deputy may be terminated without benefit of the
22 provisions of this act.

23 Section 10. The sheriff may suspend, without pay, a
24 merit employee for any personal misconduct or fact affecting
25 or concerning his or her fitness or ability to perform his or

HB69

1 her duties in the public interest. In the event a merit
2 employee is suspended without pay for more than 10 days in any
3 one year, he or she shall be entitled to a public hearing by
4 the board upon written demand filed within five days from the
5 date of the order of suspension. If, after hearing, the board
6 determines that the action of the appointing authority was not
7 with good cause, the suspension shall be revoked.

8 Section 11. (a) The sheriff may remove, discharge or
9 demote any merit employee who is directly under the sheriff,
10 provided that within five days a report in writing of the
11 action is made to the board, giving the reason for the
12 removal, discharge, or demotion. The employee shall have 10
13 days which to appeal to the board from the time of his or her
14 notification of removal, discharge, or demotion. If an appeal
15 is filed, the board shall thereupon order the charges or
16 complaint to be filed forthwith in writing, if not already
17 filed, and shall hold a hearing *de novo* on the charges. No
18 merit employee shall be removed, discharged, or demoted except
19 for some personal misconduct or fact rendering his or her
20 further tenure harmful to the public interest, or for some
21 cause affecting or concerning his or her fitness or ability.
22 If the employee's removal, discharge, or demotion is appealed
23 to the board, then the same will become final only upon
24 affirmation by the board after a hearing where the employee
25 has been given an opportunity to face his or her accusers and

HB69

1 be heard in his or her own defense. Pending a hearing, the
2 affected employee may be suspended and after the hearing the
3 board may order the employee reinstated, demoted, removed,
4 discharged, or suspended, or take any other disciplinary
5 action as in their judgment is warranted by the evidence and
6 under the law. In all cases, the decision of the board shall
7 be reduced to writing and entered in the record of the case
8 and shall include the board's findings of facts upon which its
9 decision is based.

10 (b) The board may administer oaths, take
11 depositions, certify official acts, and issue subpoenas to
12 compel the attendance of witnesses and production of papers
13 necessary as evidence in connection with any hearing,
14 investigation, or proceeding within the purview of this act.
15 The sheriff or some other law enforcement officer of the
16 county shall serve all processes of the board. In the case a
17 person refuses to obey a subpoena, the board may invoke the
18 aid of the Circuit Court of Chilton County, to order that the
19 testimony or evidence be produced. Upon proper showing, the
20 court shall issue a subpoena or order requiring the person to
21 appear before the board and produce all evidence and give all
22 testimony relating to the matter in issue. A person who fails
23 to obey a subpoena or order may be punished by the court for
24 contempt. The fees of witnesses for attendance and travel
25 shall be the same as fees for witnesses in the Circuit Court

H869

1 of Chilton County, and the fees shall be paid from the
2 treasury or the county in a case involving an employee of the
3 sheriff's department.

4 (c) In all proceedings before the board, the board
5 may employ an attorney to appear before the board and
6 prosecute all charges instituted by the sheriff when requested
7 or directed to do so and to give any legal advice and legal
8 assistance to the board as may be requested. The county
9 attorney of Chilton County or the attorney for the appointing
10 authority that is removing, discharging, demoting, or firing
11 the employee may serve in this capacity.

12 (d) Any person aggrieved by a decision of the board
13 may appeal that decision to the Circuit Court of Chilton
14 County within 30 days from the rendition of the decision by
15 the board. Review by the Circuit Court shall be without a jury
16 and be confined to the record and a determination of the
17 questions of law presented. The board's findings of fact shall
18 be final and conclusive.

19 Section 12. Each employee may exercise his or her
20 right as a citizen to express his or her opinion and to cast
21 his or her vote. No employee shall receive any appointment or
22 advancement as a reward for his or her support of a candidate
23 for office of a political party nor shall he or she be
24 dismissed, suspended, or reduced in rank or pay as punishment

HB69

1 for his or her failure to support any candidate for political
2 office.

3 Section 13. Any merit employee who willfully
4 violates any provision of this act, or any rule or regulation
5 issued in pursuance hereof, shall be dismissed from service
6 under the system and shall not be appointed or reemployed for
7 two years.

8 Section 14. All employees to which this act applies
9 shall be covered by the merit system within one year from the
10 effective date of this act.

11 Section 15. The provisions of this act are
12 severable. If any part of this act is declared invalid or
13 unconstitutional, that declaration shall not affect the part
14 which remains.

15 Section 16. All laws or parts of laws which conflict
16 with this act are repealed.

17 Section 17. This act shall become effective upon the
18 adoption of a local constitutional amendment to the
19 Constitution of Alabama of 1901, relating to Chilton County
20 and authorizing a civil service merit system for employees in
21 the Office of Sheriff.

HB69

1

2

3

4

Speaker of the House of Representatives

5

6

President and Presiding Officer of the Senate

7

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 15-JAN-2002.

Greg Pappas
Clerk

14

15

16

17

Senate

19 FEB-2002

Passed